



# Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Eighteenth Meeting Day

Monday Afternoon



February 14, 2005


The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Representative James R. Buck.

The Pledge of Allegiance to the Flag was led by Representative B. Patrick Bauer.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer	J. Lutz
Becker	Mahern
Behning 	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith 
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 112: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE:  indicates those who were excused.]

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 15, 193, 217, and 332 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, February 15, 2005 at 1:30 p.m.

FRIEND

Motion prevailed.

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 12

Representative Messer introduced House Concurrent Resolution 12:

A CONCURRENT RESOLUTION to honor and congratulate the Waldron High School boys 2004 state basketball championship team.

*Whereas, Waldron is a high school located in Shelby County;*

*Whereas, Under the leadership of Head coach, Jason Delaney, this team became the 9th team in Indiana history to go undefeated during a season;*

*Whereas, Brian Fehribach is the principal of Waldron High School and Michael Moore is the athletic director. Both are to be commended for their leadership;*

*Whereas, The team's 27 wins totals the most by a Class A team in Indiana history;*

*Whereas, The extraordinary season-long performance of the Barnard twins caught the imagination of Shelby County and the entire state;*

*Whereas, Waldron High School secured their Sectional win when they beat Southwestern (Shelbyville) 62 to 49;*

*Whereas, Waldron High School won a hard fought game over Henryville by a score of 61 to 55 for the regional win;*

*Whereas, Waldron High School won the Seymour Semi-State by beating White River Valley by a score of 82 to 76;*

*Whereas, Waldron High School defeated Fort Wayne Blackhawk Christian, 69 to 54, on March 27, 2004 to secure the state championship;*

*Whereas, The players and coaches earned the state basketball title through many hours of hard work and practice; and*

*Whereas, The entire Waldron community, Shelby County, and Waldron High School rallied around the team during their state championship run: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the House of Representatives of the General Assembly, the Senate concurring does honor and congratulate the Waldron High School boys' 2004 state basketball championship team.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Jason Delaney and Michael Stamper.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Jackman.

### House Concurrent Resolution 14

Representative Dvorak introduced House Concurrent Resolution 14:

A CONCURRENT RESOLUTION honoring David Scott Tidmarsh.

*Whereas, The National Spelling Bee was started by the Louisville Courier-Journal in Kentucky in 1925 with the hope that the contest would stimulate "general interest among pupils in a dull subject";*

*Whereas, The E.W. Scripps Company took over the National Spelling Bee in 1941;*

*Whereas, Today the purpose of the National Spelling Bee is to "help students improve their spelling, increase their vocabularies, learn concepts, and develop correct English usage that will help them all their lives";*

*Whereas, The finals for the National Spelling Bee are held in May, but the Bee starts months before with competitions at school, local, and regional events;*

*Whereas, Ultimately about 250 spellers from across the country go to Washington, D.C., for the national finals;*

*Whereas, At the time of the national finals, all contestants must be less than 16 years of age and not have graduated from the eighth grade;*

*Whereas, Fourteen-year-old South Bend resident David Scott Tidmarsh bested a field of 265 spellers to become the 2004 National Spelling Bee champion;*

*Whereas, David won the competition by spelling autochthonous in the fifteenth round;*

*Whereas, An eighth-grader at Edison Intermediate Center, David is now a member of a very exclusive group; he is one of 77 people in the history of the National Spelling Bee to be declared the best speller in the nation; and*

*Whereas, Hard work and dedication to a goal helped this amazing young man become the best speller in the nation: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the members of the Indiana General Assembly congratulate David Scott Tidmarsh on his accomplishment and wish him continued success in his future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to David Scott Tidmarsh, his parents, the principal of Edison Intermediate Center, and the superintendent of the school corporation.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Zakas.

With consent of the members, the House took up House Bills on third reading.

### ENGROSSED HOUSE BILLS ON THIRD READING

#### Engrossed House Bill 1653

Representative Wolkins called down Engrossed House Bill 1653 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 113: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Gard.

With consent of the members, the House returned to reports from committees.

### REPORTS FROM COMMITTEES

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1063, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "This section applies to all property that is" and insert "**This section does not apply to:**

- (1) a public utility (as defined in IC 8-1-2-1);
- (2) a municipally owned utility (as defined in IC 8-1-2-1);
- (3) a joint agency (as defined in IC 8-1-2.2-2);
- (4) a rural electric membership corporation formed under IC 8-1-13-4;
- (5) a rural telephone cooperative corporation formed under IC 8-1-17;
- (6) a not-for-profit utility (as defined in IC 8-1-2-125);
- (7) a board of aviation commissioners established under IC 8-22-2;
- (8) an airport authority established under IC 8-22-3; or
- (9) a railroad."

Page 1, delete line 4.

Page 1, line 15, delete "Except as provided in subsection (e), eminent domain may" and insert "**The state or a political subdivision may use eminent domain to acquire property for commercial use or to transfer any interest in property to another person for commercial use only if the owner of the property has rejected an offer from the state or a political subdivision that is equal to at least the higher of the following amounts:**

- (1) One hundred fifty percent (150%) of the property's assessed value.
- (2) The average of three (3) appraisals of the property. One (1) of the appraisers shall be appointed by the state or political subdivision and one (1) by the property owner. These two (2) appraisers shall appoint a third appraiser. However, if they are unable to do so, each appraiser shall submit the names of three (3) appraisers to the circuit court for the county in which the property is located and the court shall appoint the third appraiser from the names submitted."

Page 1, delete lines 16 through 17.

Delete page 2.

(Reference is to HB 1063 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 5.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1099, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

ULMER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1126, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, after "Sec. 2." insert "**(a) This section does not apply to a health care provider as defined in IC 34-18-2-14.**

**(b)".**

Page 1, line 2, strike "Notwithstanding any".

Page 1, line 3, strike "other provision of or any other law,".

Page 1, line 3, delete "an" and insert "An".

Page 1, line 3, after "individual" delete ":".

Page 1, line 4, delete "(1)".

Page 1, run in lines 3 through 4.

Page 1, line 5, beginning with "(1)" begin a new line block indented.

Page 1, line 5, reset in roman "(1)".

Page 1, line 5, delete "(A) is employed by; or".

Page 1, line 6, delete "(B)".

Page 1, run in lines 5 through 6.

Page 1, line 8, beginning with "(A)" begin a new line double block indented.

Page 1, line 8, reset in roman "(A)".

Page 1, line 8, delete "," and insert ";".

Page 1, line 8, beginning with "(B)" begin a new line double block indented.

Page 1, line 8, reset in roman "(B)".

Page 1, line 9, delete "," and insert ";".

Page 1, line 9, after "or" begin a new line double block indented and insert:

"(C)".

Page 1, line 13, delete "an employee,".

Page 1, line 13, after "volunteer" delete ",".

(Reference is to HB 1126 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

FOLEY, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1175, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 11, after "(d)," insert "as a term of a sentence,".

(Reference is to HB 1175 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

ULMER, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred House Bill 1222, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

BORROR, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1223, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 15. Methamphetamine Lab Reporting and Quarantine**

**Sec. 1.** As used in this chapter, "certified inspector" means a person certified under IC 13-14-1-15 to inspect and clean property polluted by a contaminant (as defined in IC 13-11-2-42).

**Sec. 2.** As used in this chapter, "law enforcement agency" has the meaning set forth in IC 10-11-8-2.

**Sec. 3.** As used in this chapter, "methamphetamine laboratory" means a location or facility that:

- (1) is being used;

- (2) was intended to be used; or
- (3) has been used;

to produce methamphetamine.

**Sec. 4.** A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to the:

- (1) state police department;
- (2) local fire department; and
- (3) county health department or multiple county health departments, if applicable;

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

**Sec. 5.** A law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory shall notify the division of family and children.

**Sec. 6. (a)** A law enforcement agency that discovers a methamphetamine laboratory may quarantine the property, or part of the property, on which the methamphetamine laboratory is located, if the law enforcement agency believes that the property is polluted by a contaminant (as defined in IC 13-11-2-42).

**(b)** A law enforcement agency that quarantines property under this section shall:

- (1) post signs declaring that the property has been quarantined; and
- (2) to the extent possible, notify all parties, including a lienholder, having an interest in the quarantined property.

**Sec. 7.** A person having an interest in property that has been quarantined under section 6 of this chapter may, after notifying the law enforcement agency that quarantined the property, have the property inspected or cleaned by a certified inspector.

**Sec. 8.** A law enforcement agency that has quarantined a property shall remove the quarantine when a certified inspector files a written report with the law enforcement agency:

- (1) describing the results of the certified inspector's inspection;
- (2) detailing cleanup undertaken by the certified inspector, if any; and
- (3) declaring that the property is safe for human use.

**Sec. 9. (a)** A person having an interest in property that has been quarantined under section 6 of this chapter may file a petition for an order to remove the quarantine with a circuit or superior court in the county in which the property is located. The person shall serve a copy of the petition on the prosecuting attorney.

**(b)** The court shall conduct a hearing on the quarantined property. At the hearing, the person having the interest in the property has the burden of proving that the property:

- (1) was wrongly quarantined; or
- (2) has been properly cleaned and is safe for human use.

**(c)** If the court finds that the property:

- (1) was wrongly quarantined; or
- (2) has been properly cleaned and is safe for human use;

the court shall order the quarantine removed.

**SECTION 2.** IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 31. (a)** The superintendent shall adopt:

- (1) guidelines; and
- (2) a reporting form or a specified electronic format, or both;

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-4.

**(b)** The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to the:

- (1) department;
- (2) local fire department; and
- (3) county health department or multiple county health department, if applicable;

on the form or in the specified electronic format adopted by the superintendent.

**(c)** The guidelines adopted under this section:

- (1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;
- (2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;
- (3) must require the department to maintain reports filed under IC 5-2-15-4 in a manner permitting an accurate assessment of:

(A) the number of methamphetamine laboratories located in Indiana in a specified period;

(B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and

(C) any other information that the superintendent determines to be relevant; and

- (4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 3. IC 10-11-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The superintendent, with input from other law enforcement agencies, may develop and maintain a **meth watch** program to inform retailers about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 4. IC 13-11-2-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. "Contaminant", for purposes of environmental management laws, means any solid, semi-solid, liquid, or gaseous matter, or any odor, radioactive material, pollutant (as defined by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste (as defined in the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1989), any constituent of a hazardous waste, or any combination of the items described in this section, from whatever source, that:

- (1) is injurious to human health, plant or animal life, or property;
- (2) interferes unreasonably with the enjoyment of life or property; or
- (3) otherwise violates:
  - (A) environmental management laws; or
  - (B) rules adopted under environmental management laws.

**The term includes chemicals used in the illegal manufacture of a controlled substance or an immediate precursor of a controlled substance, and waste produced from the illegal manufacture of a controlled substance or an immediate precursor of the controlled substance.**

SECTION 4. IC 13-14-1-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) **The department shall maintain a list of persons certified to inspect and clean property that is polluted by a contaminant. The list may specifically note persons with particular expertise or experience in the inspection or cleanup of property contaminated by chemicals used in the illegal manufacture of a controlled substance or by waste produced from the illegal manufacture of a controlled substance.**

(b) **The department may specify by rule that a person who meets certain qualifications prescribed by the department is a person certified to inspect and clean property that is polluted by a contaminant.**

(c) **The department may adopt rules under IC 4-22-2:**

- (1) to implement this section; and
- (2) concerning the inspection and remediation of quarantined property.

SECTION 6. IC 25-26-17-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **The board shall make available to a law enforcement agency records concerning an Indiana resident's mail order purchase of a drug containing ephedrine or pseudoephedrine from a nonresident pharmacy in accordance with state and federal law.**

SECTION 7. IC 35-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "bail bond" means a bond executed by a person who has been arrested for the commission of an offense, for the purpose of

ensuring:

- (1) the person's appearance at the appropriate legal proceeding;
- (2) another person's physical safety; or
- (3) the safety of the community, **including the safety of the community from the person's pattern of illegal use or manufacture of a controlled substance.**

SECTION 8. IC 35-33-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety, **including the public's safety from the person's pattern of illegal use or manufacture of a controlled substance:**

- (1) Require the defendant to:
  - (A) execute a bail bond with sufficient solvent sureties;
  - (B) deposit cash or securities in an amount equal to the bail;
  - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
  - (D) post a real estate bond.

- (2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:

- (A) Fines, costs, fees, and restitution as ordered by the court.
- (B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).
- (C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

- (3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.
- (4) Require the defendant to refrain from any direct or indirect contact with an individual.
- (5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.
- (6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.
- (7) Release the defendant on personal recognizance unless:

- (A) the state presents evidence relevant to a risk by the defendant:
  - (i) of nonappearance; or
  - (ii) to the physical safety of the public; and
- (B) the court finds by a preponderance of the evidence that the risk exists.

**(8) Require the defendant to enroll in a drug treatment program if the court determines that the defendant has a pattern of repeated illegal use or manufacture of a controlled substance.**

- ~~(8)~~ (9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community, **including the safety of the**

community from the person's pattern of illegal use or manufacture of a controlled substance.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk."

Page 2, delete lines 1 through 33.

Page 3, line 16, delete "Except as provided in subsection (e), a" and insert "A".

Page 4, between lines 14 and 15, begin a new line block indented and insert:

"(29) Gamma-butyrolactone.

(30) White phosphorus.

(31) Hypophosphorous acid and its salts.

(32) Acetic anhydride.

(33) Benzyl chloride.

(34) Ammonium nitrate.

(35) Ammonium sulfate.

(36) Hydrogen peroxide.

(37) Thionyl chloride.

(38) Ethyl acetate.

(39) Pseudoephedrine hydrochloride."

Page 5, line 11, after "to" delete ":",

Page 5, line 11, reset in roman "a:".

Page 5, line 12, delete "a".

Page 5, line 15, reset in roman "or".

Page 5, line 16, after "(2)" delete "a".

Page 5, line 27, delete "; or" and insert ":",

Page 5, delete lines 28 through 29.

Page 6, delete lines 17 through 19.

Renumber all SECTIONS consecutively.

(Reference is to HB 1223 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

ULMER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred House Bill 1224, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

BORROR, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1235, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, after line 18, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2005] **Interest credited prior to July 1, 2005, in the annuity savings account of the public employees' retirement fund to suspended members participating**

**in the guaranteed fund under IC 5-10.2-2-3 shall be treated as properly credited."**

(Reference is to HB 1235 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

TORR, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1241, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE JANUARY 1, 2006]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-6-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.5. (a) The DNA sample processing fund is established for the purpose of funding the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under this chapter. The fund shall be administered by the superintendent.**

**(b) The expenses of administering the fund shall be paid from money in the fund.**

**(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.**

**(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund."**

Page 2, after line 20, begin a new paragraph and insert:

"SECTION 3. IC 33-37-4-1, AS AMENDED BY P.L.85-2004, SECTION 16, AND AS AMENDED BY P.L.95-2004, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

(9) A highway work zone fee (IC 33-37-5-14).

(10) A deferred prosecution fee (IC 33-37-5-17).

(11) A document storage fee (IC 33-37-5-20).

(12) An automated record keeping fee (IC 33-37-5-21).

(13) A late payment fee (IC 33-37-5-22).

(14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) A judicial administration fee ~~under~~ (IC 33-37-5-21.2).

~~(15)~~ (16) A judicial insurance adjustment fee ~~under~~ (IC 33-37-5-25).

(17) A DNA sample processing fee (IC 33-37-5-26).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars (\$50); and

(2) a monthly user's fee of ten dollars (\$10) for each month that

the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
- (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 4. IC 33-37-4-2, AS AMENDED BY P.L.85-2004, SECTION 17, AND AS AMENDED BY P.L.95-2004, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (5) A highway work zone fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (~~IC 33-19-6-17~~) (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).
- (11) ~~A judicial administration fee under (IC 33-37-5-21.2).~~
- (12) ~~A judicial insurance adjustment fee under (IC 33-37-5-25).~~
- (13) **A DNA sample processing fee (IC 33-37-5-26).**

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection (e)).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

- (1) The defendant was charged with an ordinance violation

subject to IC 33-36.

- (2) The defendant denied the violation under IC 33-36-3.
- (3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of ~~IC 34-28-5-4~~ **IC 34-28-5-5** and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 5. IC 33-37-4-3, AS AMENDED BY P.L.85-2004, SECTION 18, AND AS AMENDED BY P.L.95-2004, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 31-34 (children in need of services).
- (2) IC 31-37 (delinquent children).
- (3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (6) A document storage fee (IC 33-37-5-20).
- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).
- (9) ~~A judicial administration fee under (IC 33-37-5-21.2).~~
- (10) ~~A judicial insurance adjustment fee under (IC 33-37-5-25).~~
- (11) **A DNA sample processing fee (IC 33-37-5-26).**

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 6. IC 33-37-5-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. **In each action in which a person is:**

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have committed an infraction; or
- (4) found to have violated an ordinance;

**the clerk shall collect a DNA sample processing fee of one dollar (\$1).**

SECTION 7. IC 33-37-7-2, AS AMENDED BY P.L.85-2004, SECTION 25, AND AS AMENDED BY P.L.95-2004, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the

amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

- (1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.
- (2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.
- (2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and

maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

*(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.*

~~*(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.*~~

~~*(j) This section applies after June 30, 2005.*~~

**(k) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the DNA sample processing fee collected under IC 33-37-5-26.**

SECTION 8. IC 33-37-7-8, AS AMENDED BY P.L.85-2004, SECTION 27, AND AS AMENDED BY P.L.95-2004, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug

countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) *The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.*

~~(g)~~ (h) *The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.*

~~(h)~~ This section applies after June 30, 2005.

(i) **The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the DNA sample processing fee collected under IC 33-37-5-26.**

SECTION 9. IC 33-37-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~six seven million seven hundred four thirty-nine thousand two hundred fifty-seven dollars (\$6,704,257)~~ **(\$7,039,257)** for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to ~~eleven ten and eight-hundredths fifty-six hundredths percent (11.08%); (10.56%);~~

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~twenty-five twenty-four and twenty-one two hundredths percent (25.21%); (24.02%);~~

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and ~~fifty-two thirty-six hundredths percent (3.52%); (3.36%);~~

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~fourteen thirteen and nineteen-hundredths fifty-two hundredths percent (14.19%); (13.52%);~~

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~sixteen fifteen and fifty-hundredths seventy-two hundredths percent (16.50%); (15.72%);~~

(6) the motor vehicle highway account an amount equal to ~~twenty-six twenty-five and ninety-five sixty-seven hundredths percent (26.95%); (25.67%);~~

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~thirty-two hundredths thirty-one hundredths of one percent (0.32%); (0.31%); and~~

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and ~~twenty-three thirteen hundredths percent (2.23%); (2.13%); and~~

(9) **the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to four and seventy-one hundredths percent (4.71%);**

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and

(2) after June 30, 2005, two million two hundred thousand dollars (\$2,200,000)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1241 as printed January 14, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 0.

ESPICH, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1265, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 1.

BUCK, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1314, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 25 and 26, begin a new paragraph and insert: "SECTION 3. IC 20-10.1-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The governing body of each school corporation shall:

(1) adopt policies to implement the program, based on guidelines established by the department of education; and  
(2) **work with postsecondary institutions to grant secondary credits for any student attending a postsecondary institution while the student is attending secondary school.**"

(Reference is to HB 1314 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

BEHNING, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1343, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "Each" and insert "**Before July 1, 2006, each**".

Page 1, line 3, delete "child".

Page 1, line 4, delete "nutrition and physical activity advisory committee." and insert "**coordinated school health advisory council.**".

Page 1, line 5, delete "committee" and insert "**council**".

Page 1, line 6, delete "108-265." and insert "**108-265 and IC 5-22-15-24(c).**".

Page 1, line 7, delete "committee" and insert "**council**".

Page 1, line 10, delete "committee," and insert "**council,**".

Page 1, line 11, delete "nutritionists," and insert "**nutritionists or certified dietitians,**".

Page 1, line 11, after "professionals," insert "**school board members, a school administrator,**".

Page 1, line 15, delete "committee." and insert "**council.**".

Page 2, line 1, delete "committee's" and insert "**council's**".

Page 2, between lines 1 and 2, begin a new paragraph and insert:

"(d) **The department shall, in consultation with the state department of health, provide technical assistance to coordinated school health advisory councils, including providing information on health, nutrition, and physical activity, through educational materials and professional development opportunities. The department shall provide the information given to a coordinated school health advisory council under this subsection to a school or parent upon request.**"



Page 2, line 8, delete "and".

Page 2, line 9, delete "hours." and insert "**hours; or**".

Page 2, between lines 9 and 10, begin a new line block indented and insert:

**"(4) sold or distributed as part of a fundraiser conducted by students, teachers, school groups, or parent groups, if the food or beverage is not intended for student consumption during the school day."**

Page 2, line 12, delete "sold" and insert "**available for sale**".

Page 3, line 26, delete "Available physical" and insert "**On a day when there is inclement weather or unplanned circumstances have shortened the school day, the school corporation may provide physical activity alternatives or elect not to provide daily physical activity.**".

Page 3, delete lines 27 through 28.

Page 3, line 29, delete "[EFFECTIVE MAY 15, 2005]" and insert "[EFFECTIVE UPON PASSAGE]".

Page 3, line 31, delete "May 15, 2005;" and insert "**the effective date of this SECTION;**".

Page 3, line 32, delete "on May 15, 2005;" and insert "**not later than the effective date of this SECTION;**".

(Reference is to HB 1343 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 1.

BECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1398, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 32, delete lines 31 through 42.

Delete pages 33 through 36.

Page 37, delete lines 1 through 26.

Page 63, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 58. IC 13-14-9-3, AS AMENDED BY P.L.240-2003, SECTION 4, AND AS AMENDED BY P.L.282-2003, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) *Except as provided in subsection (b)*, the department shall provide notice in the Indiana Register of the first public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

(1) Identify the authority under which the proposed rule is to be adopted.

(2) Describe the subject matter and the basic purpose of the proposed rule. The description required by this subdivision must:

(A) include a listing of all alternatives being considered by the department at the time of the notice; *and must*

(B) include:

(i) *a statement indicating whether each alternative listed under clause (A) is imposed under federal law;*

(ii) *a statement explaining how each alternative listed under clause (A) that is not imposed under federal law differs from federal law; and*

(iii) *any information known to the department about the potential fiscal impact of each alternative under clause (A) that is not imposed under federal law; and*

(C) set forth the basis for each alternative listed under clause (A).

(3) Describe the relevant statutory or regulatory requirements or restrictions relating to the subject matter of the proposed rule that exist before the adoption of the proposed rule.

(4) Request the submission of alternative ways to achieve the purpose of the proposed rule.

(5) Request the submission of comments, including suggestions of specific language for the proposed rule.

(6) Include a detailed statement of the issue to be addressed by adoption of the proposed rule.

(b) *This section does not apply to rules adopted under IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.*"

Page 98, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 119. IC 34-11-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies if a plaintiff commences an action and:

(1) the plaintiff fails in the action from any cause except ~~(1)~~ negligence in the prosecution of the action;

(2) the action abates or is defeated by the death of a party; or

(3) a judgment is arrested or reversed on appeal.

(b) If subsection (a) applies, a new action may be brought not later than the later of:

(1) three (3) years after the date of the determination under subsection (a); or

(2) the last date an action could have been commenced under the statute of limitations governing the original action;

and be considered a continuation of the original action commenced by the plaintiff."

Page 115, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 135. IC 35-50-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3)

years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; or

~~(R) an offense under IC 9-30-5-5 (operating a vehicle while intoxicated causing death) if the person had:~~

- ~~(i) at least fifteen-hundredths (0.15) gram of alcohol per one hundred (100) milliliters of the person's blood; or at least fifteen-hundredths (0.15) gram of alcohol per two hundred ten (210) liters of the person's breath; or~~
- ~~(ii) a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or~~

~~(S) (R) aggravated battery (IC 35-42-2-1.5).~~

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended."

Renumber all SECTIONS consecutively.

(Reference is to HB 1398 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

FOLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1413, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-18-2-97 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 97. "Division" means the following:

**(1) For purposes of IC 16-21-8, the meaning set forth in IC 16-21-8-0.5.**

**(2) For purposes of IC 16-22-8, the meaning set forth in IC 16-22-8-3.**

~~(2) (3)~~ For purposes of IC 16-27, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-27.

~~(3) (4)~~ For purposes of IC 16-28, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-28.

~~(4) (5)~~ For purposes of IC 16-41-40, the meaning set forth in IC 16-41-40-1.

SECTION 2. IC 16-18-2-295 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 295. **(a) "Provider", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.6.**

~~(a) (b)~~ "Provider", for purposes of IC 16-38-5, IC 16-39 (except for IC 16-39-7) and IC 16-41-1 through IC 16-41-9 and IC 16-41-37, means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

- (A) A physician.
- (B) A psychotherapist.
- (C) A dentist.
- (D) A registered nurse.
- (E) A licensed practical nurse.
- (F) An optometrist.
- (G) A podiatrist.
- (H) A chiropractor.
- (I) A physical therapist.
- (J) A psychologist.
- (K) An audiologist.
- (L) A speech-language pathologist.
- (M) A dietitian.
- (N) An occupational therapist.
- (O) A respiratory therapist.
- (P) A pharmacist.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.

(4) A home health agency licensed under IC 16-27-1.

(5) An employer of a certified emergency medical technician, a certified emergency medical technician-basic advanced, a certified emergency medical technician-intermediate, or a certified paramedic.

(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.

~~(b) (c)~~ "Provider", for purposes of IC 16-39-7-1, has the meaning set forth in IC 16-39-7-1(a).

SECTION 3. IC 16-18-2-365.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 365.5. **"Victim", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.7.**

SECTION 4. IC 16-21-8-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.5. **As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).**

SECTION 5. IC 16-21-8-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.6. **As used in this chapter, "provider" means a hospital or licensed medical services provider that provides emergency services to a victim.**

SECTION 6. IC 16-21-8-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.7. **As used in this chapter, "victim" means an alleged sex crime victim.**

SECTION 7. IC 16-21-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The ~~victim~~ services division of the Indiana criminal justice institute may not award compensation or reimbursement under this chapter unless the following conditions are met:

**(1) If the victim is at least eighteen (18) years of age:**

(1) (A) the sex crime ~~was must be~~ reported to a law enforcement officer within ~~forty-eight (48)~~ **ninety-six (96)** hours after the crime's occurrence; and

(2) (B) the victim ~~or claimant has cooperated fully must cooperate to the fullest extent possible~~ with law enforcement personnel to solve the crime.

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer. The division may not deny an application for reimbursement under this subdivision based on the victim reporting the sex crime more than ninety-six (96) hours after the crime's occurrence.

(b) If the ~~victim services~~ division of the Indiana criminal justice ~~institute~~ finds a compelling reason for failure to report to or cooperate with law enforcement officials and justice requires, the ~~victim services~~ division of the Indiana criminal justice ~~institute~~ may suspend the requirements of this section.

(c) A claim filed for services provided at a time before the provision of the emergency services for which an application for reimbursement is filed is not covered under this chapter.

SECTION 8. IC 16-21-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) When a ~~hospital or licensed medical service~~ provider provides emergency services under this chapter to an ~~alleged sex crime~~ a victim, the ~~hospital or medical service~~ provider shall furnish the services without charge.

(b) The ~~victim services~~ division of the Indiana criminal justice ~~institute~~ shall reimburse a ~~hospital or licensed medical service~~ provider for the ~~hospital's or medical service provider's~~ costs in ~~providing the services~~ cost for providing services and shall adopt rules and procedures to provide for reimbursement.

(c) The application for reimbursement must be filed not more than one hundred eighty (180) days after the date the service was provided.

(d) The division shall approve an application for reimbursement filed under subsection (b) not more than one hundred twenty (120) days after receipt of the application for reimbursement.

~~(c) (e) A hospital provider may not charge the victim for services required under this chapter despite delays in reimbursement from the victim services division. of the Indiana criminal justice institute.~~

(Reference is to HB 1413 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

BECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1419, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

TORR, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred House Bill 1422, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

BORROR, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1444, has had the same under consideration and begs leave to report the same back to the House with the

recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

BECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1453, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

TORR, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1484, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "This section applies if a student:" and insert **"If the United States Department of Education approves a new competition for states to receive matching funds for charter school facilities, the department shall pursue this federal funding."**

(b) The department shall use the common school fund interest balance to provide state matching funds for the federal funding described in subsection (a) for the benefit of charter schools.

(c) The department shall develop guidelines and the state board shall adopt rules under IC 4-22-2 necessary to implement this section."

Page 1, delete lines 4 through 17.

Delete pages 2 through 6.

(Reference is to HB 1484 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 4.

BEHNING, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1488, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 20-10.1-21-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) As used in this section, **"phonologic weakness" means a difficulty of constitutional or environmental origin which, if not strengthened to adequate levels in the context of conventional instruction, results in difficulty in learning to read, write, spell, and recall. Phonologic weakness underlies reading difficulty across race, ethnicity, and cultural and economic diversities.**

(b) The department shall develop and implement a plan to:

(1) train teachers, especially the teachers directly involved in reading and language arts, about phonologic weakness and its role in reading development;

(2) determine which reading instruments can be used to detect phonologic weakness before formal reading instruction begins;

(3) determine which reading instruments can be used to assess student reading and spelling development; and

(4) apply the results of the assessment using reading instruments to a child's instructional program.

SECTION 2. IC 20-10.1-21-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The department shall develop a technical assistance manual necessary to implement this chapter. The department shall adopt reading instruments that a school shall use to assess student reading and writing

development.

(b) Each instrument adopted by the department under this section must be based on scientific research concerning reading development and must have adequate reliability and validity.

SECTION 3. [EFFECTIVE JULY 1, 2005] (a) The department of education shall submit a report to the general assembly not later than December 31, 2006, summarizing the progress of the department's efforts under IC 20-10.1-21-7 and IC 20-10.1-21-8, as added by this act, and the impact of those efforts on the educational system. The report must be in electronic format under IC 5-14-6.

(b) This SECTION expires January 1, 2007.

(Reference is to HB 1488 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

BEHNING, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1501, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

THOMAS, Vice Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1525, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 12 and 13, begin a new paragraph and insert:  
"SECTION 2. IC 6-1.1-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 25. (a) Subject to the limitations contained in subsection (b), ~~of this section~~, tangible property is exempt from property taxation if it is owned by any of the following organizations:

- (1) The Young Men's Christian Association.
- (2) The Salvation Army, Inc.
- (3) The Knights of Columbus.
- (4) The Young Men's Hebrew Association.
- (5) The Young Women's Christian Association.
- ~~(6) A chapter or post of Disabled American Veterans of World War I or II.~~
- ~~(7) A chapter or post of the Veterans of Foreign Wars.~~
- ~~(8) A post of the American Legion.~~
- ~~(9) A post of the American War Veterans.~~
- ~~(10) A camp of United States Spanish War Veterans.~~
- ~~(11) (6) The Boy Scouts of America, one (1) or more of its incorporated local councils, or a bank or trust company in trust for the benefit of one (1) or more of its local councils.~~
- ~~(12) (7) The Girl Scouts of the U.S.A., one (1) or more of its incorporated local councils, or a bank or trust company in trust for the benefit of one (1) or more of its local councils.~~

(b) This exemption does not apply unless the property is exclusively used, and in the case of real property actually occupied, for the purposes and objectives of the organization.

SECTION 3. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **Sec. 44. Tangible property is exempt from property taxation if it is owned by any of the following organizations:**

- (1) A chapter or post of the Disabled American Veterans of World War I or II.**
- (2) A chapter or post of the Veterans of Foreign Wars.**
- (3) A post of the American Legion.**
- (4) A post of the American War Veterans.**
- (5) A camp of United States Spanish War Veterans."**

Page 2, after line 34, begin a paragraph and insert:

"SECTION 4. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-10-44, as added by this act, applies only to property taxes first due and payable after December 31, 2005.

(b) An owner of tangible property who wishes to obtain an exemption from property taxation under IC 6-1.1-10-44, as added by this act, for property taxes first due and payable in 2006 may file an application for exemption under IC 6-1.1-11 before August 1, 2005.

SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1525 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

ALDERMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred House Bill 1540, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 10, delete "Three (3)" and insert "**Four (4)**".

Page 1, line 14, delete "Three (3)" and insert "**Four (4)**".

Page 2, line 3, delete "department of commerce" and insert "**office of the lieutenant governor**".

(Reference is to HB 1540 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 0.

NEESE, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1546, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 13, line 7, after "sum" insert ", **certified by the chairman of the authority to the general assembly,**".

Page 13, line 10, after "reserve." insert "**The chairman annually, before December 1, shall make and deliver to the general assembly the chairman's certificate stating the sum required to pay debt service on the bonds or to restore one (1) or more of the funds to an amount equal to the required debt service reserve.**".

Page 16, line 19, strike "medical".

Page 16, line 19, strike "associated with a school of".

Page 16, line 20, strike "medicine," and insert "**for any of its campuses,**".

Page 16, delete lines 33 through 42.

Page 17, delete lines 1 through 12.

Page 17, line 13, reset in roman "(b)".

Page 17, line 13, delete "(d)".

Page 17, line 32, delete "Indiana University and the board of" and insert "**a state educational institution described in section 1(a) of this chapter**".

Page 17, line 33, delete "trustees of Purdue University".

Page 17, line 34, delete "any combination of".

Page 17 line 34, delete ",."

Page 17, line 35, delete "1(b), or 1(c)".

(Reference is to HB 1546 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 1.

ESPICH, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1579, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 11, delete "If an applicant conducts business at two (2) or more places".

Page 2, delete line 12.

Page 2, line 13, delete "place of business. If an applicant does not conduct" and insert **"An applicant that conducts"**.

Page 2, line 14, delete ", the applicant".

Page 2, line 15, delete "a" and insert **"the"**.

Page 2, line 16, delete "each" and insert **"the applicant's principal"**.

Page 2, delete lines 21 through 24.

Page 2, line 25, delete "(f)" and insert **"(e)"**.

Page 2, line 27, delete "(g)" and insert **"(f)"**.

Page 2, line 32, delete "or".

Page 2, line 33, delete "." and insert **"; or**

**(5) the applicant violates IC 24-3-4."**

Page 2, line 34, delete "(h)" and insert **"(g)"**.

Page 2, line 37, delete "(f)" and insert **"(e)"**.

Page 2, line 40, delete ":",

Page 2, line 41, delete "(1)".

Page 2, run in lines 40 through 41.

Page 2, line 42, delete "; and" and insert ".".

Page 3, delete line 1.

Page 3, line 6, after "sell" delete "or".

Page 3, line 7, delete "distribute".

Page 3, line 9, delete "or distributes".

Page 3, line 12, delete "or distribute".

Page 3, delete lines 17 through 27.

Page 3, line 28, delete "13." and insert **"12. (a) This section does not apply to a distributor who:**

**(1) is a licensed manufacturer; and**

**(2) complies with section 13 of this chapter.**

**(b)"**.

Page 3, line 38, delete "14." and insert **"13."**

Page 4, line 21, delete "15." and insert **"14."**

Page 4, line 30, delete "16." and insert **"15."**

Page 4, line 37, delete "17." and insert **"16. (a)"**.

Page 4, after line 40, begin a new paragraph and insert:

**"(b) A person that brings an action under subsection (a) shall provide notice to the attorney general of the commencement of the action.**

**SECTION 2. [EFFECTIVE JULY 1, 2005] Notwithstanding IC 24-3-6-12(b)(2), as added by this act, a distributor (as defined in IC 24-3-6-2, as added by this act) is not required to report the information required in IC 24-3-6-12(b)(2), as added by this act, until the later of the following:**

**(1) The attorney general is capable of receiving the information reported in an electronic format.**

**(2) July 1, 2008."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1579 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

ALDERMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1623, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

**SECTION 1. IC 12-15-11.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]:** Sec. 3. (a) The office or the office's managed care contractor may not provide incentives or mandates to the primary medical provider to direct individuals described in section 2 of this chapter to contracted hospitals other than a hospital in a city where the patient resides.

(b) The prohibition in subsection (a) includes methodologies that operate to lessen a primary medical provider's payment due to the provider's referral of an individual described in section 2 of this

chapter to the hospital in the city where the individual resides.

(c) If a hospital's reimbursement for nonemergency services that are provided to an individual described in section 2 of this chapter is established by:

(1) statute; or

(2) an agreement between the hospital and the individual's managed care contractor;

the hospital may not decline to provide nonemergency services to the individual on the basis that the individual is enrolled in the Medicaid risk based program.

(d) A hospital that provides services to individuals described in section 2 of this chapter shall comply with eligibility verification and medical management programs negotiated under the hospital's most recent contract or agreement with the office's managed care contractor.

(e) This section expires December 31, ~~2004~~ **2006**.

(f) Notwithstanding subsection (a), this section does not prohibit the office or the office's managed care contractor from directing individuals described in section 2 of this chapter to a hospital other than a hospital in a city where the patient resides if both of the following conditions exist:

(1) The patient is directed to a hospital other than a hospital in a city where the patient resides for the purpose of receiving medically necessary services.

(2) The type of medically necessary services to be received by the patient cannot be obtained in a hospital in a city where the patient resides.

**SECTION 2. IC 12-15-11.5-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]:** Sec. 4.1. (a) A hospital that:

(1) does not have a contract in effect with the office's managed care contractor; but

(2) previously contracted or entered into an agreement with the office's managed care contractor for the provision of services under the office's managed care program;

shall be reimbursed for services provided to individuals described in section 2 of this chapter at rates equivalent to the rates negotiated under the hospital's most recent contract or agreement with the office's managed care contractor, as adjusted for inflation by the inflation adjustment factor described in subsection (b). However, the adjusted rates may not exceed the established Medicaid rates paid to Medicaid providers who are not contracted providers in the office's managed health care services program.

(b) For each state fiscal year beginning after June 30, 2001, an inflation adjustment factor shall be applied under subsection (a) that is the average of the percentage increase in the medical care component of the Consumer Price Index for all Urban Consumers and the percentage increase in the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics, for the twelve (12) month period ending in March preceding the beginning of the state fiscal year.

(c) This section expires December 31, ~~2004~~ **2006**.

**SECTION 3. IC 12-16-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 3. (a) The division shall adopt rules under IC 4-22-2 to establish income and resource eligibility standards for patients whose care is to be paid under the hospital care for the indigent program.

(b) To the extent possible **and subject to this article**, rules adopted under this section must meet the following conditions:

(1) Be consistent with IC 12-15-21-2 and IC 12-15-21-3.

(2) Be adjusted at least one (1) time every two (2) years.

(c) The income and eligibility standards established under this section do not include any spend down provisions available under IC 12-15-21-2 or IC 12-15-21-3.

(d) In addition to the conditions imposed under subsection (b), rules adopted under this section must exclude a Holocaust victim's settlement payment received by an eligible individual from the income and eligibility standards for patients whose care is to be paid for under the hospital care for the indigent program.

**SECTION 4. IC 12-16-4.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 2. A hospital must file the application with the division not more than ~~thirty (30)~~ **forty-five (45)** days after the person has been ~~admitted to;~~ or

otherwise provided care by, released or discharged from the hospital, unless the person is medically unable and the next of kin or legal representative is unavailable.

SECTION 5. IC 12-16-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **Subject to this article**, the division shall adopt rules under IC 4-22-2 prescribing the following:

- (1) The form of an application.
- (2) The establishment of procedures for applications.
- (3) The time for submitting and processing claims.

SECTION 6. IC 12-16-4.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person may file an application directly with the division if the application is filed not more than ~~thirty (30)~~ **forty-five (45)** days after the person was ~~admitted to, or provided care by, released or discharged from~~ the hospital.

(b) Reimbursement for the costs incurred in providing care to an eligible person may only be made to the providers of the care.

SECTION 7. IC 12-16-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The division shall, upon receipt of an application of or for a person who was admitted to, or who was otherwise provided care by, a hospital, promptly investigate to determine the person's eligibility under the hospital care for the indigent program. **Information regarding the person obtained by the hospital must be accepted by the division for purposes of determining the person's eligibility under the program. The division shall permit the person, or the person's representative if the person is not available, to be interviewed by telephone.** The county office located in:

- (1) the county where the person is a resident; or
- (2) the county where the onset of the medical condition that necessitated the care occurred if the person's Indiana residency or Indiana county of residence cannot be determined;

shall cooperate with the division in determining the person's eligibility under the program.

SECTION 8. IC 12-16-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Subject to subsection (b), if the division is unable after prompt and diligent efforts to verify information contained in the application that is reasonably necessary to determine eligibility, the division may deny assistance under the hospital care for the indigent program. **The division's failure to act within the time limit under IC 12-16-6.5-1.5 is not a valid reason to deny assistance under the hospital care for the indigent program.**

(b) Before denying assistance under the hospital care for the indigent program, the division must provide the person and the hospital written notice of:

- (1) the specific information or verification needed to determine eligibility and **the statute or rule requiring the information or verification;**
- (2) **the specific efforts taken to obtain the information or verification; and**
- ~~(2)~~ (3) the date on which the application will be denied if the information or verification is not provided within ten (10) days after the date of the notice.

SECTION 9. IC 12-16-6.5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. **Subject to IC 12-16-5.5-3(b)(3), if the division does not complete an investigation and determination of a person's financial and medical eligibility under the hospital care for the indigent program under IC 12-16-3.5 within forty-five (45) days after receipt of the application filed under IC 12-16-4.5, the person shall be considered to be financially and medically eligible under the program, and the hospital, medical, and transportation services that are part of the application must be covered by the program.**

SECTION 10. IC 12-16-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. If the division

- ~~(1)~~ fails to complete an investigation and determination of eligibility under the hospital care for the indigent program not more than forty-five (45) days after the receipt of the application filed under ~~IC 12-16-4.5; or~~

~~(2)~~ fails or refuses to accept responsibility for payment of medical or hospital care under the hospital care for the indigent program,

a person, physician, hospital, or transportation provider affected may appeal to the division not more than ninety (90) days after the receipt of the application filed under IC 12-16-4.5.

SECTION 11. IC 12-16-11.5-1 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 12. **An emergency is declared for this act.**

(Reference is to HB 1623 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

BECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1649, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, delete "program" and insert "**programs and**".

Page 1, line 15, strike "eight (8)" and insert "**nine (9)**".

Page 2, between lines 6 and 7, begin a new line block indented and insert:

**"(5) The chairman of the state fair advisory committee appointed under IC 15-1-1.5-5(c) or a member of the committee designated by the chairman may serve as an ex officio nonvoting member."**

Page 5, line 10, delete "following:" and insert "following, **with approval by the commission:**".

Page 5, line 12, delete ", with approval by the commission." and insert "."

Page 5, line 17, after "Purchase" insert " ,".

Page 5, line 17, reset in roman "lease,".

Page 6, between lines 28 and 29, begin a new paragraph and insert:

**"(d) Notwithstanding IC 4-2-6-5, with approval by the commission, commission employees:**

**(1) may be compensated in full or in part by the nonprofit entity established under section 10 of this chapter; and**

**(2) may perform services that support the purposes of the nonprofit entity established under section 10 of this chapter."**

Page 6, line 36, delete "responsible to the executive director of the commission." and insert "**accountable to the commission directly or through the executive director.**".

Page 6, line 41, delete "educational program" and insert "**barn**".

Page 7, line 9, delete ":" and insert ".".

Page 7, strike lines 10 through 13.

Page 7, reset in roman line 14.

Page 7, line 15, reset in roman "proceeds from the operations of the".

Page 7, line 15, delete "barn." and insert "**barn, subject to approval by the commission.**".

Page 7, line 16, reset in roman "(c)".

Page 7, line 16, delete "(b)".

Page 7, line 28, delete "appropriated" and insert "**allocated by the commission**".

(Reference is to HB 1649 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

GUTWEIN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1666, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

GUTWEIN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1724, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 5.

Page 6, delete lines 1 through 9.

Page 14, delete lines 11 through 35.

Page 29, delete lines 24 through 42.

Delete pages 30 through 35.

Page 36, delete lines 1 through 41.

Renumber all SECTIONS consecutively.

(Reference is to HB 1724 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

GUTWEIN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1741, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, delete line 42 and insert "**are trained and experienced in using consumer fireworks;**".

Page 7, line 1, delete "the township's fire department;".

Page 7, line 9, delete "seventy-five (75)" and insert "**one hundred (100)**".

Page 9, line 11, delete "the structure was".

Page 9, line 12, after "(i)" insert "**the structure was**".

Page 9, line 12, delete "and" and insert "**or**".

Page 9, line 13, delete "was" and insert "**is**".

Page 9, line 28, delete "'B" or 'M'" and insert "**'M mercantile'**".

Page 9, line 41, delete "1998," and insert "**2003,**".

(Reference is to HB 1741 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 2.

ALDERMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1777, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 18, nays 3.

ESPICH, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1799, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 6, nays 5.

BEHNING, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1821, has had the same under consideration and begs leave to report the same back to the House with the

recommendation that said bill be amended as follows:

Page 4, between lines 22 and 23, begin a new paragraph and insert: "SECTION 5. IC 16-46-11.1-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) The hospital council, established by IC 16-21-1-1, shall adopt criteria that allows a hospital licensed under IC 16-21-2 to provide a hospital in-service program to train health care interpreters and health care translators. The hospital council shall consider the qualifications under section 6 of this chapter when determining the criteria for hospital in-service programs.**

**(b) An individual who successfully completes a hospital health care interpreter or a health care translator in-service program that:**

**(1) is administered by hospital licensed under IC 16-21-2; and**

**(2) meets the requirements established by the hospital council;**

**meets the qualifications for registration and certification as a health care interpreter or a health care translator and is exempt from the examination under section 6(a) of this chapter."**

Page 4, line 23, delete "IC 16-46-11.1-7" and insert "IC 16-46-11.1-8".

Page 4, line 25, delete "Sec. 7." and insert "**Sec. 8.**".

Page 4, line 40, delete "IC 16-46-11.1-8" and insert "IC 16-46-11.1-9".

Page 4, line 42, delete "Sec. 8." and insert "**Sec. 9.**".

Page 11, delete lines 40 through 42.

Page 12, delete lines 1 through 38.

Renumber all SECTIONS consecutively.

(Reference is to HB 1821 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 1.

BECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred House Bill 1822, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

BORROR, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1829, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

ULMER, Chair

Report adopted.

The House recessed until the fall of the gavel.

### RECESS

The House reconvened at 3:30 p.m. with the Speaker in the Chair.

Representative Goodin was excused for the rest of the day.

### RESOLUTIONS ON FIRST READING

#### Senate Concurrent Resolution 30

The Speaker handed down Senate Concurrent Resolution 30, sponsored by Representative Ayres:

A CONCURRENT RESOLUTION honoring the 75th anniversary of the Cub Scouts, Webelos Scouts and Tiger Cubs.

*Whereas, The Boy Scouts of America were formed in 1910 and proved to be such a success that the Boy Scouts desired to extend the programs to younger children;*

*Whereas, The Cub Scouts, Webelos Scouts and Tiger Scouts (the "Scouts") were formed in 1930 to provide programs similar to that of the Boy Scouts of America to children below the age of 12 years;*

*Whereas, The Scouts currently have nearly two million members, along with over a half million adult volunteers, which make up over 50,000 packs; and*

*Whereas, Since their inception, over 57 million boys have been involved in the Scouts: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly honors the Cub Scouts, Webelos Scouts and Tiger Cubs for their 75th anniversary.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Ida Becker, 310 East 7th Street, Fowler, Indiana 47944.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

## HOUSE BILLS ON SECOND READING

### House Bill 1135

Representative Heim called down House Bill 1135 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1197

Representative Thompson called down House Bill 1197 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1217

Representative Frizzell called down House Bill 1217 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1247

Representative Grubb called down House Bill 1247 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1363

Representative Stevenson called down House Bill 1363 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1365

Representative Hoffman called down House Bill 1365 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1394

Representative Stutzman called down House Bill 1394 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1403

Representative Thomas called down House Bill 1403 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1407

Representative Richardson called down House Bill 1407 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1432

Representative J. Lutz called down House Bill 1432 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1495

Representative Foley called down House Bill 1495 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1537

Representative Ruppel called down House Bill 1537 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1553

Representative Buell called down House Bill 1553 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1575

Representative Walorski called down House Bill 1575 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1580

Representative Davis called down House Bill 1580 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1594

Representative Ruppel called down House Bill 1594 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1594-1)

Mr. Speaker: I move that House Bill 1594 be amended to read as follows:

Page 2, line 13, delete "occurs," and insert "**does not occur**,".  
(Reference is to HB 1594 as printed February 11, 2005.)

RUPPEL

Motion prevailed. The bill was ordered engrossed.

### House Bill 1600

Representative Ruppel called down House Bill 1600 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1600-1)

Mr. Speaker: I move that House Bill 1600 be amended to read as follows:

Page 1, line 16, reset in roman "state university".

Page 1, line 16, after "university" insert ", **college, or junior college**".

Page 1, line 17, delete ", including a police officer whose employer" and insert ".".

Page 2, delete line 1, begin a new line block indented and insert:  
"**(13) A police officer whose employer purchases coverage under section 4.5 of this chapter.**".

Page 2, line 2, strike "(13)" and insert "**(14)**".

Page 2, line 8, strike "(14)" and insert "**(15)**".

Page 2, line 10, delete "(15)" and insert "**(16)**".

Page 2, line 18, after "(1)" insert "**with respect to a police officer,**".

Page 2, line 21, after "(2)" insert "**with respect to a firefighter,**".

Page 3, between lines 8 and 9, begin a new paragraph and insert:  
"SECTION 4. IC 35-33-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another



person or the community, to assure the public's physical safety:

- (1) Require the defendant to:
  - (A) execute a bail bond with sufficient solvent sureties;
  - (B) deposit cash or securities in an amount equal to the bail;
  - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
  - (D) post a real estate bond.

**The defendant must also pay the fee required by subsection (d).**

(2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:

- (A) Fines, costs, fees, and restitution as ordered by the court.
- (B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).
- (C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

**(D) The fee required by subsection (d).**

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

- (A) the state presents evidence relevant to a risk by the defendant:
  - (i) of nonappearance; or
  - (ii) to the physical safety of the public; and
- (B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed, or the defendant is acquitted or convicted of the charges.

**(d) Except as provided in subsection (e), the clerk of the court shall:**

- (1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and
- (2) retain a fee of five dollars (\$5) from each deposit under

**subsection (a)(2).**

**The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).**

**(d) (e)** With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day **and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.**

**(e) (f)** When a court imposes a condition of bail described in subsection (a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk."

Page 3, line 16, after "(1)" insert **"with respect to a police officer,"**

Page 3, line 19, after "(2)" insert **"with respect to a firefighter,"**

Renumber all SECTIONS consecutively.

(Reference is to HB 1600 as printed February 11, 2005.)

RUPPEL

Motion prevailed. The bill was ordered engrossed.

## House Bill 1611

Representative Noe called down House Bill 1611 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 1611-3)

Mr. Speaker: I move that House Bill 1611 be amended to read as follows:

Page 2, between lines 29 and 30, begin a new paragraph and insert:

**"(f) Notwithstanding any other law, rule, or custom, a payment to a person by the state under this section discharges only the state's obligation to that person to the extent of the amount of the payment tendered, and does not constitute a settlement, reduction, release, or compromise of the state's obligation to the person."**

Page 3, line 6, delete "may" and insert "shall".

Page 3, line 11, delete "The employee".

Page 3, delete lines 12 through 14.

Page 3, line 19, delete "The employee".

Page 3, delete lines 20 through 23.

Page 3, line 29, delete "(5)".

Page 3, line 29, beginning with "The" begin a new line blocked left.

Page 3, line 29, after "The" insert **"auditor of state may grant a state employee's request for a waiver for reasons other than stated in subdivisions (1) through (4) if the"**.

Page 3, run in lines 31 through 32.

(Reference is to HB 1611 as printed February 9, 2005.)

NOE

Motion prevailed. The bill was ordered engrossed.

## House Bill 1729

Representative Friend called down House Bill 1729 for second reading. The bill was read a second time by title.

### HOUSE MOTION (Amendment 1729-1)

Mr. Speaker: I move that House Bill 1729 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert the following:

**"SECTION 1. IC 6-3.5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. In the case of a county that contains a consolidated city, the city-county council may appropriate money derived from the surtax to:**

- (1) the department of transportation established by IC 36-3-5-4 for use by the department under law; or**
- (2) the Indiana transportation finance authority for the**

**payment of lease rentals under IC 8-14.6.**

The city-county council may not appropriate money derived from the surtax for any other purpose.

SECTION 2. IC 6-3.5-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) In the case of a county that does not contain a consolidated city of the first class, the county treasurer shall deposit the surtax revenues in a fund to be known as the "\_\_\_\_\_ County Surtax Fund".

(b) Before the twentieth day of each month, the county auditor shall allocate the money deposited in the county surtax fund during that month among the county and the cities and the towns in the county. The county auditor shall allocate the money to counties, cities, and towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).

(c) Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and towns in the county the money deposited in the county surtax fund during that month. The county treasurer shall base the distribution on allocations made by the county auditor for that month under subsection (b).

(d) A county, city, or town may only use the surtax revenues it receives under this section to:

(1) construct, reconstruct, repair, or maintain streets and roads under its jurisdiction; or

(2) provide funds to the Indiana transportation finance authority for the payment of lease rentals under IC 8-14.6.

SECTION 3. IC 6-3.5-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) In the case of a county that contains a consolidated city, the city-county council may appropriate money derived from the wheel tax to:

(1) the department of transportation established by IC 36-3-5-4 for use by the department under law; or

(2) an authority established under IC 36-7-23; or

(3) the Indiana transportation finance authority for the payment of lease rentals under IC 8-14.6.

(b) The city-county council may not appropriate money derived from the wheel tax for any other purpose.

SECTION 4. IC 6-3.5-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) In the case of a county that does not contain a consolidated city, the county treasurer shall deposit the wheel tax revenues in a fund to be known as the "County Wheel Tax Fund".

(b) Before the twentieth day of each month, the county auditor shall allocate the money deposited in the county wheel tax fund during that month among the county and the cities and the towns in the county. The county auditor shall allocate the money to counties, cities, and towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).

(c) Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and towns in the county the money deposited in the county wheel tax fund during that month. The county treasurer shall base the distribution on allocations made by the county auditor for that month under subsection (b).

(d) A county, city, or town may only use the wheel tax revenues it receives under this section:

(1) to construct, reconstruct, repair, or maintain streets and roads under its jurisdiction; or

(2) as a contribution to an authority established under IC 36-7-23; or

(3) to provide funds to the Indiana transportation finance authority for the payment of lease rentals under IC 8-14.6.

Page 4, line 40, after "revenues." insert "When issuing grant anticipation revenue bonds or notes, the authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes."

Page 5, between lines 34 and 35, begin a new paragraph and insert: "SECTION 13. IC 8-14.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

## **ARTICLE 14.6. LEASE FINANCING FOR LOCAL ROAD PROJECTS**

### **Chapter 1. Legislative Findings of Fact**

Sec. 1. The general assembly makes the following findings of fact:

(1) That there exists in cities, towns, and counties in Indiana

a need for construction, acquisition, reconstruction, improvement, and extension of local roads in order to provide for the public welfare and safety by providing safe, dependable, and reliable local roads for vehicular traffic.

(2) That the development and maintenance of the economy of Indiana's cities, towns, and counties requires an adequate system of local roads in order to provide for the public welfare and to facilitate the creation and maintenance of jobs, the increase and stabilization of the tax base, and the general economic welfare of cities, towns, and counties and their citizens.

(3) That it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article.

Sec. 2. This article provides an additional and alternative method for doing the things authorized by this article, and is supplemental and additional to powers conferred by other laws and not in derogation of any other powers.

Sec. 3. This article is necessary for the welfare of the cities, towns, and counties of Indiana and their inhabitants, and shall be liberally construed to effect the purposes of this article.

### **Chapter 2. Definitions**

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Authority" refers to the Indiana transportation finance authority established under IC 8-9.5-8-2.

Sec. 3. "Bonds" refers to bonds of the authority issued under IC 8-14.6-6.

Sec. 4. "Capitalized interest" means interest cost on bonds or notes before and during the period of construction of the local road project for which the bonds or notes were issued, and for a period not to exceed one (1) year after completion of construction.

Sec. 5. "Construction" means the construction, acquisition, reconstruction, improvement, and extension of a local road project.

Sec. 6. "Costs" as applied to any local road project includes any item or cost of a capital nature incurred in the construction of a local road project, including:

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the authority for the construction, including the cost of any relocations incident to the acquisition;

(3) the cost of demolishing or removing any buildings, structures, or improvements on property acquired by the authority, including the cost of:

(A) acquiring any property to which the buildings, structures, or improvements may be moved; or

(B) acquiring any property that may be exchanged for property acquired by the authority;

(4) financing charges;

(5) costs of issuance of bonds or notes, including costs of credit enhancement, such as bond or note insurance;

(6) remarketing or conversion fees;

(7) bond or note discount;

(8) capitalized interest;

(9) the cost of funding any reserves to secure the payment of bonds or notes;

(10) engineering and legal expenses, costs of plans, specifications, surveys, estimates, and any necessary feasibility studies;

(11) other expenses necessary or incident to determining the feasibility or practicability of constructing any local road project;

(12) administrative expenses of the authority or one (1) or more local units relating to any local road project financed by bonds or notes;

(13) reimbursement of one (1) or more local units for:

(A) any cost, obligation, or expense incurred by the local unit or units relating to a local road project;

(B) advances relating to a local road project from the local unit or units to the authority for surveys, borings,

preparation of plans and specifications, or engineering services; or

(C) any other cost of construction incurred by the local unit or units or paid from advances; and

(14) other expenses the authority finds necessary or incident to the construction of the local road project, the financing of the construction, and the placing of the local road project in operation.

Sec. 7. "Local road project" means any:

- (1) road;
- (2) street;
- (3) motorway;
- (4) bridge;
- (5) tunnel;
- (6) overpass;
- (7) underpass;
- (8) interchange;
- (9) entrance;
- (10) approach; or
- (11) other public way;

that is part of the arterial road system, local county roads, arterial street system, or local streets for a local unit for purposes of IC 8-14-2. The term includes all land, rights-of-way, property, rights, easements, materials, and legal or equitable interests necessary for the construction of the local road project.

Sec. 8. "Local unit" means a city, town, or county acting through its fiscal body (as defined in IC 36-1-2-6).

Sec. 9. "Notes" refers to notes of the authority issued under IC 8-14.6-6 and includes any evidences of indebtedness of the authority except bonds.

Sec. 10. "Property owner" means all individuals, copartnerships, associations, governmental units or entities, corporations, limited liability companies, or other legal entities having any title or interest in any land, rights-of-way, property, rights, easements, or legal or equitable interests that may be acquired by the authority.

Sec. 11. "Weighted average life" of an issue of bonds or notes means:

- (1) the sum of the products of the face amount of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory sinking fund redemptions); divided by
- (2) the face amount of the entire issue of bonds or notes.

Sec. 12. "Weighted average useful life" of a local road project or local road projects means:

- (1) the sum of the products of the cost of each asset comprising the local road project or local road projects and the useful life of the respective asset; divided by
- (2) the total cost of all the assets comprising the local road project or local road projects.

For purposes of this computation, the useful life of land is fifty (50) years. The useful life of all other assets comprising the local road project shall be conclusively evidenced by a certificate of the local unit, supported by a statement from the local unit's consulting engineer. The weighted average useful life of any local road project shall be determined as of the later of the date on which the local road project is expected to be placed in service and the date on which the bonds or notes are issued.

### Chapter 3. General Provisions

Sec. 1. The authority shall contract with one (1) or more local units for construction, ownership, maintenance, and operation of local road projects.

Sec. 2. The authority shall finance local road projects in accordance with this article.

Sec. 3. The authority may exercise any powers provided under this article in participation or cooperation with any governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute. This article constitutes complete authority for the authority to carry out its powers and duties under this article. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision are required for the authority to carry out its powers and duties,

except as prescribed in this article.

Sec. 4. The authority may pay the cost of construction of a local road project from any funds available to the authority under this article or any other law.

Sec. 5. The authority may sell, transfer, lease, or otherwise convey any land, rights-of-way, property, rights, easements, or legal or equitable interest it considers necessary or convenient for carrying out this article, including disposal of unused or surplus property.

Sec. 6. The authority may acquire by purchase, whenever it considers a purchase expedient, any land, rights-of-way, property, rights, easements, or other legal or equitable interests as it considers necessary or convenient for the construction and operation of any local road project. A purchase under this section shall be made upon the terms and at the price agreed upon between the authority and the property owner.

Sec. 7. The authority may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article or any other law. These contracts or agreements are not subject to any approvals other than the approval of the authority and may be for any term of years and contain any terms that are considered reasonable by the authority.

Sec. 8. The authority may employ and fix the compensation of financial advisors and underwriters, bond counsel, other attorneys with the approval of the attorney general, and other employees, independent contractors, and agents as necessary in its judgment to carry out this article. The authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes.

Sec. 9. The authority may accept gifts, devises, bequests, grants, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

Sec. 10. The authority may accept the transfer of any local road project to the authority.

Sec. 11. (a) Except as provided in subsection (b), the authority may, in the manner provided by IC 8-23-7, acquire by appropriation any land, rights-of-way, property, rights, easements, or other legal or equitable interests necessary or convenient for the construction or the efficient operation of any local road project. However, compensation for the property taken shall first be made in money as provided by law.

(b) The authority may take or disturb property or facilities that:

- (1) belong to any public utility or to a common carrier engaged in interstate commerce;
- (2) are required for the proper and convenient operation of the public utility or common carrier; and
- (3) are not located within the limits of local road projects being constructed under this article;

only if provision is made for the restoration, relocation, or duplication of the property or facilities elsewhere at the cost of the authority.

Sec. 12. The authority may do all things necessary or proper to carry out this article.

Sec. 13. A local unit may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land, rights-of-way, easements, and legal or equitable interests), title to which is held in the name of the local unit, to the authority, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this article.

Sec. 14. All property of the authority is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the state or any political subdivision of the state.

### Chapter 4. Contracts With Local Units

Sec. 1. The authority is responsible for the construction, leasing, and ownership of local road projects. With respect to each local road project, the authority and one (1) or more local units may enter into a contract for the purposes set forth in this chapter. If the authority and the local unit or units decide to

enter into a contract under this chapter, the authority and the local unit or units may enter into a separate contract for each local road project or a master contract for several local road projects.

Sec. 2. A contract under this chapter must:

- (1) provide for the construction and ownership of the local road project; and
- (2) describe the local road project or local road projects, setting forth in general terms principal features such as geographic location, widths of rights-of-way, number of lanes in each direction, width of traffic lanes, widths of shoulders, location and nature of tunnels, overpasses, interchanges, bridges, approaches, and connecting roads, streets, and highways.

Sec. 3. The contract may include the following:

- (1) Provisions for payment by the authority to the local unit or units of all costs incurred by the local unit or units in the performance of the contracts, including all costs of construction, salaries, wages, and associated costs of personnel attributable to performance of the contract.
- (2) Other terms and conditions that the authority and the local unit or units consider appropriate.

Sec. 4. Notwithstanding any other law, a local unit may enter into a contract with the authority by negotiating the contract with the authority and without complying with the requirements of any other law. A local unit shall observe any existing contractual commitments to the holders of bonds or notes or other persons when entering into a contract.

#### Chapter 5. Leases With Local Units

Sec. 1. (a) In addition to its other powers, one (1) or more local units may enter into a lease or leases with the authority under section 2 or 3 of this chapter for any or all of the purposes set forth in this article. Notwithstanding any other law, a local unit may enter into a lease with the authority by negotiating the lease with the authority and without complying with the requirements of any other law. A local unit shall observe any existing contractual commitments to the holders of bonds or notes or other persons when entering into a lease.

(b) The authority has all the powers necessary and incidental to carry out the terms and conditions of leases under this chapter.

(c) If the authority and one (1) or more local units decide to enter into a lease under this chapter, the authority and the local unit or units may enter into a separate lease for each local road project or may enter into one (1) or more master leases for several local road projects.

Sec. 2. (a) A lease entered into under this section must include the following:

- (1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and appropriation purposes with a fractional period when the lease begins, if necessary.
- (2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of twenty-five (25) years, unless either the authority or the local unit or units give notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.
- (3) A provision plainly stating that the lease does not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the local unit or units solely from the sources described in section 6 of this chapter, for the actual use or availability for use of local road projects provided by the authority, with payment commencing not earlier than the time the use or availability commences.
- (4) Provisions requiring the local unit or units to pay rent at times and in amounts sufficient to pay in full:
  - (A) the debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any local road project, including any required additions to reserves for the bonds or notes maintained by the authority; and

(B) additional rent as provided by the lease;

subject to the appropriation of money by the local unit or units to pay lease rentals.

(5) Provisions requiring the local unit or units to operate and maintain the local road project or local road projects during the term of the lease.

(6) A provision in each master lease for two (2) or more local road projects requiring that each local road project added to the master lease shall be covered by a supplemental lease describing the particular local road project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all local road projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the local unit or units consider appropriate.

(c) The fiscal officer (as defined in IC 36-1-2-7) of the local unit shall request an appropriation from the local unit for payment of lease rentals on any lease entered into under this section in writing at a time sufficiently in advance of the date for payment of the lease rentals so that an appropriation may be made in the normal budgetary process of the local unit.

Sec. 3. (a) A lease entered into under this section must include the following:

(1) The term of the lease, which may not exceed the weighted average useful life of the local road project or local road projects.

(2) A provision plainly stating that the lease does not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the local unit or units solely for the annual use or availability for use of local road projects provided by the authority, with payment commencing not earlier than the time the use or availability commences.

(3) Provisions requiring the local unit or units to pay rent at times and in amounts sufficient to pay in full the following:

(A) The debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any local road project, including any required additions to reserves for the bonds or notes maintained by the authority.

(B) Additional rent as provided by the lease.

(4) Provisions requiring the local unit or units to operate and maintain the local road project or local road projects during the term of the lease.

(5) A provision in each master lease for two (2) or more local road projects requiring that each local road project added to the master lease shall be covered by a supplemental lease describing the particular local road project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all local road projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the local unit or units consider appropriate.

Sec. 4. If a local unit fails at any time to pay to the authority when due any lease rentals on any lease under this chapter, the chairman of the authority shall immediately report the unpaid amount in writing to the general assembly and the governor.

Sec. 5. A local unit or units may lease any property under its control to the authority for construction of a local road project, which local road project may be leased to the local unit or units.

Sec. 6. (a) A local unit shall pay lease rentals for leases entered into under this chapter from revenues from any combination of the following sources:

(1) Money payable to the local unit from the motor vehicle highway account.

(2) Money payable to the local unit from the local road and street account.

- (3) Revenues from the county motor vehicle excise surtax.
- (4) Revenues from the county wheel tax.
- (5) Federal transportation revenues apportioned or allocated to the state and distributed to the local unit by the Indiana department of transportation.
- (6) Any other source of revenues (other than property taxes) that is legally available to the local unit.

(b) A local unit may, in the manner provided by IC 5-1-14-4, pledge the revenues described in this section for the payment of lease rentals. However, in making a pledge the local unit shall not commit money required to provide adequate funding for other local road needs.

Sec. 7. If a local unit pledges money from the motor vehicle highway account or the local road and street account, or both, for the payment of lease rentals for leases entered into under this chapter, the local unit shall immediately provide the auditor of state with a written notice setting forth the terms of the pledge and directing the auditor of state to:

- (1) withhold the amounts pledged from the distributions that are otherwise payable to the local unit under IC 8-14-1-3 or IC 8-14-2-4, or both; and
- (2) pay the amounts withheld to the authority.

Notwithstanding IC 8-14-1-3 and IC 8-14-2-4, the auditor of state shall withhold and pay to the authority the amounts specified in the notice.

Sec. 8. Notwithstanding any other provision of law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to a local unit (other than for goods or services provided by the local unit), at any time after written notice to the department or agency head from the authority that the local unit is in default on the payment of lease rentals for a lease entered into under this chapter, the department or agency shall withhold the payment of that money from the local unit and pay over the money to the authority for the purpose of paying the lease rentals.

Sec. 9. The requirements of sections 7 and 8 of this chapter to withhold amounts due under a lease do not create a debt of the state or a local unit for purposes of the Constitution of the State of Indiana.

#### Chapter 6. Issuance of Bonds and Notes

Sec. 1. Subject to sections 2 and 5 of this chapter, and before July 1, 2008, the authority shall, by resolution, issue and sell bonds or notes of the authority to provide funds to carry out this article with respect to the construction of a local road project or local road projects or the refunding of any bonds or notes, together with any reasonable costs associated with a refunding.

Sec. 2. Before the issuance of bonds or notes, the authority must receive the approval of the budget agency.

Sec. 3. (a) The construction of a local road project may not be financed under this article, if at the time the lease with respect to the local road project is initially entered into, the weighted average useful life of the local road project is less than five (5) years.

(b) For purposes of this section and section 5 of this chapter, a certificate of the local unit, supported by a statement from the local unit's consulting engineer, as to the weighted average useful life of the local road project is conclusive with respect to the matters contained in the certificate.

(c) If any bonds or notes bear interest at a variable or adjustable rate, lease rentals under any lease or leases attributable to debt service shall be fixed over the term of the lease or leases based on the fair and reasonable value of the local road project or local road projects leased.

Sec. 4. (a) Before issuing a series of bonds or notes, the authority shall publish a notice of its determination to issue the bonds or notes. The notice shall be published:

- (1) one (1) time in two (2) newspapers published and of general circulation in the city of Indianapolis; and
- (2) one (1) time in one (1) newspaper published and of general circulation in each local unit that proposes to enter into a lease of the local road projects to be financed by the bonds or notes.

(b) No action to contest the validity of:

- (1) any contract entered into by one (1) or more local units

and the authority before the bonds or notes are issued;

(2) any lease entered into by one (1) or more local units and the authority before the bonds or notes are issued to secure a series of bonds or notes; or

(3) a series of bonds or notes issued by the authority;

may be brought against the authority after the fifteenth day following publication of the notice required by subsection (a)(1) or against a local unit after the fifteenth day following publication of the notice under subsection (a)(2).

(c) If a lease or contract is entered into under this chapter after bonds or notes relating to the lease or contract are issued, the authority may publish notice of execution of the lease or contract as set forth in subsection (a). No action against the authority to contest the validity of such a lease or contract may be brought after the fifteenth day following publication of the notice under subsection (a)(1) or against a local unit after the fifteenth day following publication of the notice under subsection (a)(2).

(d) If an action against the authority or a local unit challenging a lease, a contract, bonds, or notes is not brought within the time prescribed by this section, the lease, contract, bonds, or notes shall be conclusively presumed to be fully authorized and valid under the laws of the state and any person or entity is estopped from further questioning the authorization, validity, execution, delivery, or issuance of the contract, lease, bonds, or notes.

Sec. 5. (a) The bonds or notes must indicate on their face:

- (1) the maturity date or dates, as determined under subsection (b);
- (2) the interest rate or rates (whether fixed, variable, or a combination of fixed and variable) or the manner in which the interest rate or rates will be determined if variable or adjustable rates are used;
- (3) registration privileges and place of payment, including provisions for book entry obligations as set forth in IC 5-1-15;
- (4) the conditions and terms under which the bonds or notes may be redeemed or prepaid before maturity; and
- (5) the source of payment as set forth in section 10 of this chapter.

(b) The weighted average life of the bonds or notes may not exceed the sum of:

- (1) the weighted average useful life of the local road project or local road projects to be financed from the proceeds of the bonds or notes; plus
- (2) the period of construction of the local road project or local road projects.

Sec. 6. The bonds or notes:

- (1) shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority;
- (2) shall be attested by the manual or facsimile signature of the secretary-treasurer or assistant secretary-treasurer of the authority;
- (3) shall be imprinted or impressed with the seal of the authority by any means;
- (4) may be authenticated by a trustee, registrar, or paying agent; and
- (5) constitute valid and binding obligations of the authority, even if the chairman, vice chairman, secretary-treasurer, or assistant secretary-treasurer whose manual or facsimile signature appears on the bonds or notes no longer holds that office.

Sec. 7. The bonds or notes, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds or notes for value.

Sec. 8. The bonds or notes may be sold by the authority at a public or a negotiated sale at a time or times determined by the authority and at a premium or discount as determined by the authority. In determining the amount of bonds or notes to be issued and sold, the authority may include the costs of construction or of refunding bonds or notes, including reasonable debt service reserves, and all other expenses necessary or incident to the construction of the local road project, a refunding, or the issuance of the bonds or notes.

Sec. 9. The proceeds of the bonds or notes are appropriated for

the purpose for which the bonds or notes may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the authority may provide in the resolution or trust agreement authorizing the issuance of the bonds or notes. The maturities of the bonds or notes, the rights of the owners, and the rights, duties, and obligations of the authority are governed in all respects by this article and the resolution or trust agreement.

**Sec. 10. The bonds or notes:**

- (1) constitute the corporate obligations of the authority;
- (2) do not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation; and
- (3) are payable solely as to both principal and interest from:
  - (A) the revenues from a lease to one (1) or more local units, if any;
  - (B) proceeds of bonds or notes, if any; or
  - (C) investment earnings on proceeds of bonds or notes.

**Sec. 11. The provisions of this article and the covenants and undertakings of the authority as expressed in any proceedings preliminary to or in connection with the issuance of the bonds or notes may be enforced, subject to the provisions of any resolution or trust agreement, by a bond or note owner by action for injunction or mandamus against the authority or any officer, agent, or employee of the authority. However, no action for monetary judgment may be brought against the state for any violations of this article or for payment of the bonds or notes of the authority.**

**Sec. 12. All bonds or notes issued under this article are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds and notes, the interest on the bonds and notes, the proceeds received by an owner from the sale of the bonds or notes to the extent of the owner's cost of acquisition, proceeds received upon redemption for maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.**

**Sec. 13. Notwithstanding any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.**

**Sec. 14. Bonds or notes issued under this chapter are exempt from the registration requirements of IC 23-2-1 and any other state securities registration statutes.**

**Sec. 15. A pledge of lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority is binding from the time the pledge is made. Lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority and thereafter received by the authority or its trustee or fiduciary is immediately subject to the lien of the pledge without any further act, and the lien of the pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice of the lien. A resolution, trust agreement, or any other instrument by which a pledge is created is required to be filed or recorded only in the records of the authority.**

**Sec. 16. The authority may obtain from a department or an agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal, or any debt service reserve funds, on bonds or notes issued by the authority, or on securities purchased or held by the authority.**

**Sec. 17. The authority may enter into agreements with an entity to provide credit enhancement or liquidity support for any bonds or notes issued by the authority, or for any debt service reserves securing any bonds or notes, with terms that are reasonable and proper, in the discretion of the authority, and not in violation of law. The authority may execute and deliver notes**

**to evidence its obligation to make payments under such an agreement, but these notes must conform to this article in all respects.**

**Sec. 18. The authority may enter into agreements or contracts with any financial institution as may be necessary, desirable, or convenient in the opinion of the authority for rendering services in connection with:**

- (1) the care, custody, or safekeeping of securities or other investments held or owned by the authority;
- (2) the payment or collection of amounts payable as to principal or interest; and
- (3) the delivery to the authority of securities or other investments purchased or sold by it.

**The authority may also, in connection with any of the services rendered by a financial institution as to custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements as, in the opinion of the authority, is necessary or desirable.**

**Sec. 19. (a) In the discretion of the authority, any bonds and notes issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Such a trust agreement may also provide for a cotrustee, which may be any trust company or bank in Indiana or another state.**

**(b) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of bonds or notes as may be reasonable and proper, in the discretion of the authority, and not in violation of law.**

**(c) The trust agreement or resolution may set forth the rights and remedies of the owners of any bonds or notes of the trustee and may restrict the individual right of action by the owners.**

**(d) Any trust agreement or resolution may contain other provisions that the authority considers reasonable and proper for the security of the owners of bonds or notes.**

**(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from money pledged or assigned to the payment of the principal of and interest on bonds or notes or from any other funds available to the authority.**

**Sec. 20. The authority may purchase bonds or notes of the authority out of its funds or money available for the purchase of its own bonds or notes. The authority may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with owners of its bonds or notes. Unless canceled, bonds or notes so held shall be considered to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be considered to be extinguished.**

**Sec. 21. Funds or money held by the authority under any trust agreement or resolution may be invested pending disbursement as provided in the trust agreement or the resolution. Such an investment is not restricted by or subject to the provisions of any other law.**

**Chapter 7. Reserve Fund for Bonds and Notes**

**Sec. 1. (a) The authority may establish and maintain a reserve fund for each issue of bonds or notes in which there shall be deposited or transferred:**

- (1) all money appropriated by the general assembly for the purpose of the fund in accordance with section 3(a) of this chapter;
- (2) all proceeds of bonds or notes required to be deposited in the fund under the terms of:
  - (A) a contract between the authority and the holders of the bonds or notes; or
  - (B) a resolution of the authority with respect to the proceeds of bonds or notes;
- (3) all other money appropriated by the general assembly to a reserve fund; and
- (4) any other money or funds of the authority that it decides to deposit in the fund.

**(b) Subject to section 3(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds or notes of the authority as the interest and principal become due and payable and for the**

retirement of bonds or notes. The money may not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds or notes and the principal of bonds or notes then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other money of the bank is not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution or trust agreement of the authority.

(c) Money in any reserve fund that exceeds the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions of any agreement with the holders of any bonds or notes.

Sec. 2. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the authority. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

Sec. 3. (a) In order to assure the maintenance of the required debt service reserve in any reserve fund, the general assembly may annually appropriate to the authority for deposit in one (1) or more of the funds the sum, certified by the authority to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve. Before December 1 of each year, the authority shall make and deliver to the general assembly a certificate stating the sum required to restore the funds to that amount. Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the authority for that fiscal year may be transferred to the state general fund.

Sec. 4. Subject to the provisions of any agreement with its holders, the bank may combine a reserve fund established for an issue of bonds or notes into one (1) or more reserve funds."

Renumber all SECTIONS consecutively.

(Reference is to HB 1729 as printed February 9, 2005.)

VAN HAAFTEN

Motion prevailed. The bill was ordered engrossed.

### House Bill 1736

Representative Ayres called down House Bill 1736 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1736-1)

Mr. Speaker: I move that House Bill 1736 be amended to read as follows:

Page 6, line 10, delete ":" and insert "**publish the determination not later than thirty (30) days after the conclusion of the hearing and shall:**".

Page 6, delete lines 17 through 22.

(Reference is to HB 1736 as printed February 9, 2005.)

AYRES

Motion prevailed. The bill was ordered engrossed.

### House Bill 1765

Representative Hoffman called down House Bill 1765 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1270

Representative Pond called down House Bill 1270 for second

reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### Reassignments

The Speaker announced the following reassignments:

House Bill 1369 from the Committee on Public Safety and Homeland Security to the Committee on Ways and Means.

House Bill 1390 from the Committee on Public Health to the Committee on Public Policy and Veterans Affairs.

House Bill 1848 from the Committee on Rules and Legislative Procedures to the Committee on Environmental Affairs.

### Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1235, 1283, 1413, 1419, 1422, 1579, 1623, 1724, and 1829 had been referred to the Committee on Ways and Means.

### Referrals to Ways and Means withdrawn

The Speaker announced that the referral of House Bill 1258 to the Committee on Ways and Means, pursuant to Rule 127, had been withdrawn.

### HOUSE MOTION

Mr. Speaker: I move that Representative VanHaaften be added as coauthor of House Bill 1099.

MESSER

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Noe and T. Brown be added as coauthors of House Bill 1174.

MAYS

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Pelath be added as coauthor of House Bill 1221.

KOCH

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Hoy, T. Adams, and Stilwell be added as coauthors of House Bill 1357.

C. BROWN

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative GiaQuinta be added as coauthor of House Bill 1385.

MURPHY

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Whetstone be added as coauthor of House Bill 1519.

ALDERMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kuzman be added as coauthor of House Bill 1746.

BUDAK

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Saunders and Hoy be added as coauthors of House Bill 1789.

AGUILERA

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Crawford, the House adjourned at 4:15 p.m., this fourteenth day of February, 2005, until Tuesday, February 15, 2005, at 1:30 p.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives